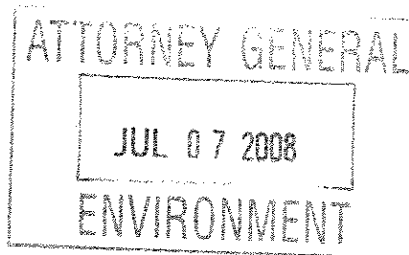


James O. Kennon, Pro Se
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P.O. Box 440067
Koosharem, Utah 84744
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Dick Cumiskey, Pro Se
270 East 2200 North
Monroe, Utah 84754
Tele: (435) 527-4448



IN THE UTAH COURT OF APPEALS

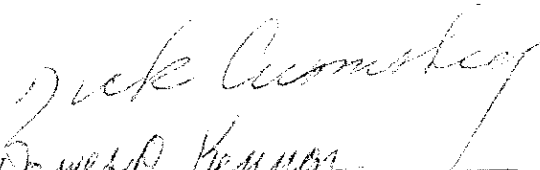
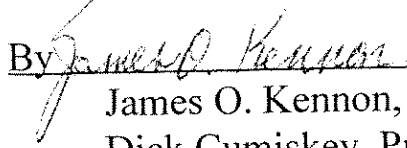
James O. Kennon, Co-Plaintiff	(	JOINT PETITION FOR REVIEW
Dick Cumiskey, Co-Plaintiff	(	OF ORDER RE PETITION TO
	(	INTERVENE
	(	In the Matter of: Intermountain
	(	Power Service Corporation,
v.	(	Millard County, Utah
	(	Project Code: N0327-010
	(	DAQE-AN327010
Utah Air Quality Board and	(	Order re Petition to Intervene
IPP Unit 3 Development	(	Dated June 16, 2008
Committee	(
Defendants/Appellee	(
	(

Notice is hereby given that James O. Kennon, and Dick Cumiskey, petitions the Utah Court of Appeals to review the Order re Petition to Intervene of the Utah Air Quality Board entered, June 16, 2008. This joint petition seeks review of the Order re Petition to Intervene in the appeal in the Matter of Intermountain Power Service Corporation, Millard County, Utah. The Utah Chapter of the Sierra Club filed a Agency Action with the Utah Air

Quality Board dated November 12, 2004. The appeal has been delayed for several years until a group calling itself, "IPP Unit 3 Development Committee" was granted an order to intervene on May 7, 2008.

The petitioners met the legal requirements for Standing but were denied the right to Intervene.

Petitioner's request the court to direct the respondent to prepare and certify to the court its entire record, which shall include all of the proceedings and evidence taken in this matter.


By 
James O. Kennon, Pro Se
Dick Cumiskey, Pro Se

Dated this 14 day of July, 2008

CERTIFICATION OF SERVICE

I, James O. Kennon, hereby certify that on this 12th day of July, 2008, I served a copy of the attached Petition For Review and Notice of Joint Appeal upon the parties listed below by mailing it United States Mail, postage prepaid to the following:

Fred G. Nelson
Assistant Attorney General
160 East 300 South, 5th Floor
Salt Lake City, Utah 84114

Christian Stephens
Paul McConkie
Assistant Attorney Generals
150 North 1950 West
Salt Lake City, Utah 84114

H. Michael Keller
Matthew F. McNulty
VanCott, Bagley, Cornwall & McCarthy
36 south State Street, Suite 1900
Salt Lake City, Utah 84111

Joro Walker
Western Resource Advocates
Counsel for the Utah Chapter
of the Sierra Club
425 East 100 South
Salt Lake City, Utah 84111

Martin Banks
Stoel Rives, LLP
201 West Main, Suite 1100
Salt Lake City, Utah 84111

Michael Jenkins
Assistant General Counsel
PacifiCorp
201 South Main, Suite 2200
Salt Lake City, Utah 84111

By James O. Kennon
James O. Kennon

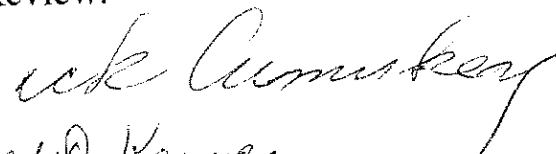
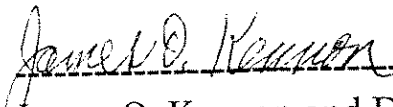
CERTIFICATE that TRANSCRIPT is NOT REQUIRED

James O. Kennon, Pro Se
312 North 300 West
P.O. Box 440067
Koosharem Utah 84744
Tele: (435) 638-7371
Dick Cumiskey, Pro Se
270 East 2200 North
Monroe, Utah 84754
Tele: (435) 527-4448Case Name

IN THE UTAH AIR QUALITY BOARD, THE STATE OF UTAH.

<u>James O. Kennon and Dick Cumiskey,</u>	)	CERTIFICATE THAT
Plaintiffs and Appellants	)	TRANSCRIPT IS NOT
	)	REQUIRED
vs.)	
	)	UTAH AIR QUALITY
	)	BOARD. In the Matter of:
<u>Utah Air Quality Board and IPP Unit 3</u>	)	Power Service Corporation.
<u>Development Committee</u>	)	Millard County, Utah
	)	DAQE-AN327010

Appellant, James O. Kennon and Dick Cumiskey, certifies to the court that no transcript will be requested in the above entitled case. Petitioners have requested the entire record and evidence to be sent to the court in the Petition For Review.



James O. Kennon and Dick Cumiskey

Date July 1, 2008

From: Fred Nelson
To: sccaw@yahoo.com
CC: Keller, Michael; Mcconkie, Paul; Stephens, Christian; walker, joro
Date: 06/19/2008 8:41 AM
Subject: Reconsideration Request

On June 12, 2008 I received your "Reconsideration of Petition to Intervene in the Intermountain Power Project Unit 3 Appeal". It was filed prematurely before the written order was issued on June 17, 2008. If after review of the written order, you still wish to request reconsideration, you have 20 days from June 16, 2008, to make that request. If you have any questions, please let me know.

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sccaw@yahoo.com
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Save Our Air & Resources (SOAR)
146 North main Street, Suite 27
P.O. Box 182
Richfield, Utah 84701

James O. Kennon and Dick Cumiskey,
representing themselves and (SOAR) Petitioners request oral arguments.

BEFORE THE UTAH AIR QUALITY BOARD

In Re: Approval Order - PSD Major	*	
Modification to Add Unit 3 at	*	RECONSIDERATION OF
Intermountain Power Generating	*	PETITION TO INTERVENE
Station, Millard County, Utah	*	IN THE INTERMOUNTAIN
Project Code No. 327-010	*	POWER PROJECT UNIT 3
DAQE-AN0327010-04	*	APPEAL
	*	
	*	

Comes now, James O. Kennon, Dick Cumiskey, and the association, Save Our Air & Resources, request the Utah Air Quality Board to reconsider its decision to deny the above petitioners the right to Intervene in the above appeal. This is made pursuant to Utah Admin. Code R307-103-6 and the Utah Code Admin. 63-46b-9. New information has come forward that would allow the Utah Air Quality Board (Board) to revisit its June 4, 2008. In the interest of justice and

the orderly prompt resolution of the requested petition, the petitioners make this request. Utah regulations require that the petitioners exhaust their administrative options in these cases.

FACTS

The Utah Rules of Administrative Procedures, R307-103-11, Reconsideration, states in part, "A party may request reconsideration of an order of the presiding officer as provided in 63-46b-13." The U.S. Clean Air Act also requires that public participation. To quote the EPA, "Public participation is a very important part of the 1990 Clean Air Act. Throughout the Act, different provisions give the public opportunities to take part in determining how the law is carried out." The IPP Unit #3 permit is under going significant modification that require public participation. 40 CFR Chapter 1 - 70.7 (5) (h), Public participation, states, "Except for modifications qualify for minor permit modification procedures, all permit proceedings, including initial permit issuance and renewals, shall provide adequate procedures for public notice including offering an opportunity for public comment and a hearing on the draft permit. These procedures shall include the following:"

ARGUMENT

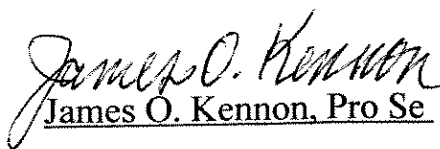
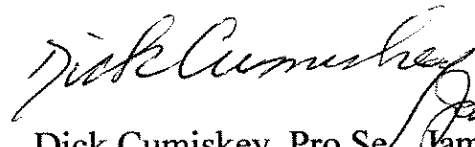
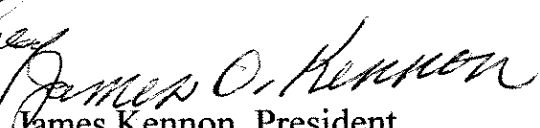
Utah and Federal regulations require that public participation be made


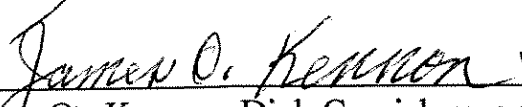
available when permits are reopened. The petitioners have meet the requirements to be granted Standing as testified to by Assistant Attorney General, Fred Nelson at the June 4, 2008, Air Quality Board meeting. In the interest of justice and to expedite the the Appeal process, the petitioners in this case request the Board to reconsider their decision to deny the petitioners Intervention.

Conclusion

James O. Kennon, Dick Cumiskey, and the members of Save Our Air & Resources, have meet the requirements to have Standing and the right to Intervene in the IPP Unit #3. They respectfully request the Utah Air Quality Board to grant our request to reconsider the issue presented in this case.

RESPECTFULLY SUBMITTED ON THIS 10TH DAY OF JUNE, 2008

 James O. Kennon, Pro Se  Dick Cumiskey, Pro Se  James Kennon, President
SOAR


By  James O. Kennon
James O. Kennon, Dick Cumiskey, and members of SOAR.

CERTIFICATION OF SERVICE

I hereby certify that on this 10th day of June, 2008, I caused a true copy of the foregoing to be served by U.S. Mail postage prepaid, to the following:

Fred G. Nelson
Assistant Attorney General
150 North 300 South, 5th Floor
Salt Lake City, Utah 84114

Joro Walker, Counsel for the Utah
Chapter of the Sierra Club
425 East 100 South
Salt Lake City, Utah 84111

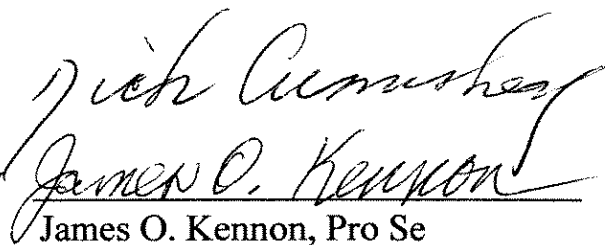
Matthew F. Mc Nulty, III
H. Michael Keller
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Salt Lake City, Utah 84111

Christian Stephens
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Martin Banks
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Michael Jenkins
PacifiCorp
201 South Main Suite 2200
Salt Lake City, Utah 84111

BY


James O. Kennon, Pro Se

Dick Cumiskey, Pro Se

BEFORE THE
UTAH AIR QUALITY BOARD

In the Matter of:

*

*

Order re Petition to Intervene

Unit 3, Intermountain Power Service
Corporation, Millard County, Utah
DAQE-AN0327010-04

*

*

On June 4, 2008, the Utah Air Quality Board in the above-entitled matter considered a petition to intervene by Save Our Air and Resources ("SOAR"), James O. Kennon, and Dick Cumiskey. Michael Keller appeared for the IPP Unit 3 Development Committee, Paul McConkie and Christian Stephens appeared for the Executive Secretary. Mr. Kennon and Mr. Cumiskey represented themselves and SOAR. Utah Air Quality Board members present were Ernest E. Wessman (who recused himself), James R. Horrocks, Wayne M. Samuelson, Nan Bunker, Kathy Van Dame (who recused herself), Joel E. Elstein, Stephen C. Sands (who recused himself), Stead Burwell and Darrell H. Smith. Fred Nelson acted as counsel for the Board.

The administrative procedures of the Board provide at UAC R307-103-6(2)(c) that:

"A person seeking to intervene in a proceeding for which agency action has not been initiated under 63-46b-3 may file a Request for Agency Action at the same time he files a Petition for Intervention. Any such Request for Agency Action and Petition to Intervene must be received by the board for filing within 30 days of the issuance of the initial order or notice of violation being challenged."

On October 15, 2004, the Executive Secretary of the Utah Air Quality Board issued an Approval Order granting a permit to Intermountain Power Service Corporation ("IPSC") to construct and operate an additional coal-fired power plant Unit #3 at the Intermountain Power Plant in Millard County, Utah. By pleading dated November 15, 2004, the Utah Chapter of the

Sierra Club and Grand Canyon Trust (collectively referred to herein as "Sierra Club") timely filed within the 30 day period a Petition to Intervene and Request for Agency Action seeking review of the October 15, 2004 decision. This above-entitled matter continues to be pending before the Board.

In approximately the same time frame, the Executive Secretary, on October 12, 2004, had issued an Approval Order granting a permit to Sevier Power Company to construct and operate a coal-fired power plant in Sevier County, Utah. By pleading dated November 12, 2004, Sierra Club filed a timely Request for Agency Action and Petition to Intervene within the 30 days of the granting of that Approval Order challenging the decision of the Executive Secretary. Also filing a timely Request for Agency Action within the 30 days, dated November 1, 2004, was the Sevier County Citizens for Clean Air and Water (Sevier Citizens) represented by Mr. James Kennon who also petitioned to intervene challenging the Sevier Power Company Approval Order.

The Board heard the petitions to intervene in both the IPP Unit 3 and Sevier Power matters at the same time on April 13, 2005. Mr. Kennon and the Sevier County Citizens for Clean Air and Water were present, and had not, and did not request intervention in the IPP Unit 3 appeal at that time.

The Sevier Power Company appeals have been fully adjudicated by the Board, and Mr. Kennon, Mr. Cumiskey, and the organizations they represent participated in those proceedings.

By pleading dated April 15, 2008, James Kennon, Dick Cumiskey, and Save Our Air and Resources (SOAR) have now petitioned to intervene in the above proceeding, the appeal of the IPP Unit 3 Approval Order. No Request for Agency Action was filed with the Petition to

Intervene.

After hearing oral argument by the parties and from James Kennon and Dick Cumiskey, on behalf of themselves and SOAR, the Board held that the petition to intervene by Mr. Kennon, Mr. Cumisky, and SOAR was not timely filed, as required under UAC R307-103-6(2)(c), in that it was not filed within 30 days of the order being appealed. By a vote of four in favor (Horrocks, Bunker, Samuelson, and Smith), and two opposed (Burwell and Elstein), the Board denied the petition to intervene.

DATED this 16th day of June, 2008



Utah Air Quality Board

Notice of the Right to Apply for Reconsideration or Review

Within 20 days after the date this final order is signed in this matter by the Utah Air Quality Board, any party shall have the right to apply for reconsideration with the Board, pursuant to Utah Code Ann. § 63-46b-13. The request for reconsideration should state the specific grounds upon which relief is requested and should be submitted in writing to the Board at 168 North 1950 West, Salt Lake City, Utah, 84114. A copy of the request must be mailed to each party by the person making the request. The filing of a request for reconsideration is not a prerequisite for seeking judicial review of this Order.

Notice of the Right to Petition for Judicial Review

Judicial review of this Order may be sought in the Utah Court of Appeals under Utah Code Ann. § 63-46b-16 and the Utah Rules of Appellate Procedure by the filing of a proper petition within thirty days after the date of this Order.

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of June, 2008, I caused a copy of the forgoing Order re Petition to Intervene to be mailed by United States Mail, postage prepaid, to the following:

Joro Walker
Western Resource Advocates
425 East 100 South
Salt Lake City, Utah 84111

Chris Stephens
Assistant Attorney General
Utah Division of Air Quality
150 North 1950 West
Salt Lake City, Utah 84114

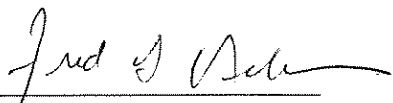
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Fred G Nelson
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Salt Lake City, Utah 84114-0873